



1646
Attorney Docket No. P66566US0

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Roger NITSCH

Serial No. 09/831,754

Group Art Unit: 1646

Filed: October 15, 2001

Examiner: CHERNYSHEV, Olga N.

For METHODS OF DIAGNOSING OR TREATING NEUROLOGICAL DISEASES AND CELL DEGENERATION

TRANSMITTAL

Commissioner for Patents
Washington, D.C. 20231

RECEIVED

JAN 23 2003

Sir:

TECH CENTER 1600/2900

Transmitted herewith please find Response to Restriction Requirement.

Small Entity status of this application under 37 CFR 1.9 and 1.27 has been established.

Fee Calculation						
Excess Claims						
	Nº of Claims		Excess Claims	Paid Excess Claims Of Record	Small Entity Fee	Large Entity Fee
Total		⊖ 20 =		⊗ \$9 = \$	⊗ \$18 = \$	
Ind.		⊖ 3 =		⊗ \$42 = \$	⊗ \$84 = \$	
[] Multiple Dependent Fee (First Presentation)				⊕ \$140 = \$	⊕ \$280 = \$	
Excess Claims Fee				\$	\$	
Extension of Time Fee				\$	\$	
Other:				\$	\$	
Total Fee Due				\$	\$	

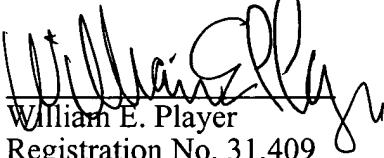
— A check for \$ is attached.

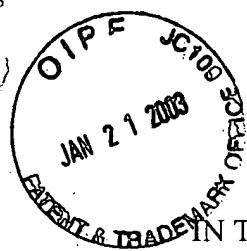
— Charge \$ to Deposit Account No. 06-1358.

If a petition for extension of time is necessary but not enclosed, the Commissioner is petitioned to extend the time for response. The Commissioner is authorized to charge payment of any fees associated with this communication to Deposit Account No. 06-1358.

JACOBSON HOLMAN PLLC
400 Seventh Street, N. W.
Washington, D.C. 20004-2201
Date: January 21, 2003
WEP:rdt

By:


William E. Player
Registration No. 31,409



#9/PMS
01-29-03

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RESPONSE
TO RESTRICTION REQUIREMENT

JAN 23 2003

Commissioner of Patents
United States Patent & Trademark Office
Washington, D.C. 20231

TECH CENTER 1600/2900

Sir:

This paper responds to the Office Action (restriction requirement) mailed November 20, 2002.

Pursuant to the restriction requirement under 35 USC 121, election is made, hereby, to prosecute the claims of Group I, claims 39-54, with traverse. Traverse is maintained because of the following reasons

First, traverse is maintained because the restriction incorrectly states that Group I, covering claims 39-54, includes claiming "a method of producing a new nucleic acid." There are no method claims among claims 39-54. Moreover, in addition to "an isolated nucleic acid encoding a protein" and "the protein encoded thereby," claims 39-54 include claims defining a vector containing the isolated nucleic acid, a plasmid containing the isolated nucleic acid, and a cell transformed with the isolated nucleic acid.

Secondly, traversal is maintained because Group I does not include the first method of using the nucleic acid, which according to the restriction requirement (sentence bridging pages 3 and 4 of the Office Action) should be included in Group I.

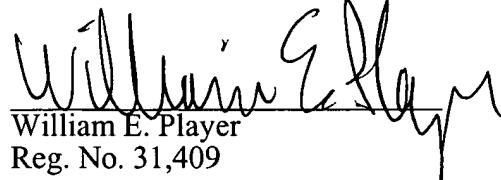
Serial No. 09/831,754
Atty. Dkt. No. P66566US0

Favorable action is requested.

Respectfully submitted,

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Date: January 21, 2003
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